

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO

In Re:

**Thomas and Connie McCool**  
**20 Lemmon Street**  
**Attica, OH 44807**

Debtors/Plaintiffs

Vs.

**Beneficial**  
**C/o CT Corporation System**  
**1300 East 9<sup>th</sup> Street**  
**Cleveland, OH 44114**

Creditor/Defendant.

Case Number: 09-33065

Adver Pro. No.:

Judge: Speer

**COMPLAINT FOR  
INJUNCTIVE RELIEF AND  
MONETARY AND PUNITIVE  
DAMAGES**

Now comes the Plaintiff by and through counsel and requests that this Court grant injunctive relief against Defendant for violation of 11 USC § 524 and 11 USC § 524(A) (2). This Court has jurisdiction under 11 USC § 105. The debt in question was discharged under 11 USC § 727(b) as debt that arose prior to the granting of relief in this case. Further this action is a core proceeding.

**Background and Facts**

1. The Plaintiff is and has been a resident of **Seneca County**, Ohio, and is subject to the jurisdiction of this Court. Defendant conducts business within the State of Ohio and elsewhere and was listed as a creditor in the bankruptcy and is subject to the jurisdiction of this Court in this Matter.
2. Plaintiff filed a bankruptcy petition in this Court on **May 7, 2009**.
3. The case filing included the Defendant as secured creditor on Schedule D of the bankruptcy petition (see Exhibit "A," attached hereto and made a part hereof).

4. A 341 hearing notice was sent to the Defendant notifying them that the deadline to file a complaint objecting to the discharge was **September 4, 2009** (see Exhibit "B," Meeting of Creditor Notice with Certificate of Service, attached hereto and made a part hereof).

5. Defendant was listed with a total balance owed by the Plaintiff of **\$18,642.00**, which was completely unsecured based upon the value of the property. Defendant received notice by being mailed through the Court's system. Defendant failed to respond or to file any objection to the discharge.

6. An automatic stay was granted on May 7, 2009, and an order of discharge was granted by the United States Bankruptcy Court on September 10, 2009. Defendant was properly notified of this discharge (see Exhibit "C," Discharge of Debtor with Certificate of Service, attached hereto and made a part hereof).

7. Defendant has continued to contact and harass Plaintiff for past due payment on the aforementioned debt, thereby violating the permanent discharge injunction in contravention of 11 USC 524. Plaintiff did receive from Defendant several billing statements demanding payment of said debt. This action is willful and malicious and continues to the present time (see Exhibit "D," Copies of Collection Letters).

**WHEREFORE**, Defendant did have notice of the bankruptcy filing and automatic stay and continued its collection efforts in spite of the language of 11 USC § 524, and in violation of 11 USC §727. Plaintiff has suffered damages and, as a result, prays this Court grant injunctive relief by ordering the Defendant to cease its collection efforts. Plaintiff would request damages. Further, Plaintiff prays this Court grant punitive damages, as well legal fees and any other remedy this Court would find appropriate.

Respectfully Submitted

/s/ Gregory E. Pawlowski

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### **CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing was sent via electronic transmission to the United States Bankruptcy Court on this 7<sup>th</sup> day of December, 2009. Defendant, Beneficial, was served via regular U.S. mail at C/o CT Corporation System, 1300 East 9<sup>th</sup> Street, Cleveland, OH 44114 on this same date.

/s/Gregory Pawlowski, Esq.